

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

Criminal Revision No. 1057 of 1997

Date of Decision : July, 02, 2010

Balbir

....Petitioner

Versus

State of Haryana

.....Respondent

CORAM : HON'BLE MR. JUSTICE T.P.S. MANN

Present : Mr. Ishwar Lal, Advocate

Mr. Manish Deswal, Deputy Advocate General, Haryana

T.P.S. MANN, J. (Oral)

The petitioner was tried for an offence under Section 379 of the Indian Penal Code on the allegations that on 8.3.1991 at about 5.00 p.m. in the area of Bus Stand, Sadhaura, he committed theft of Rs.110/- by taking that amount out of the possession of complainant-Maha Singh. Vide judgment and order dated 10/11.10.1995, Additional Chief Judicial Magistrate, Jagadhri convicted him for the aforementioned offence and sentenced him to undergo rigorous imprisonment for one year and to pay a fine of Rs.500/-. Aggrieved of his conviction and sentence, the petitioner filed an appeal but the same was dismissed by Additional Sessions Judge, Yamuna Nagar on 3.11.1997. Consequently, he was taken into custody so as to serve the sentence imposed upon him. He then filed the present revision in which he was granted the concession of

bail on 10.12.1997.

Learned counsel for the petitioner has not challenged the conviction of the petitioner for the offence under Section 379 IPC. However, he has submitted that the occurrence in question had taken place more than nineteen years earlier. The amount said to have been stolen by the petitioner was recovered from him when he was shown to have been apprehended while running away from the spot. The petitioner is not a previous convict. He has already deposited the fine imposed upon him by the trial Court. Out of the sentence of one year, he has served an actual period of one and a half months. Therefore, the sentence of imprisonment imposed upon the petitioner be reduced to that already undergone by him.

On the other hand, learned State counsel has opposed the prayer made on behalf of the petitioner by submitting that the petitioner had pushed the complainant while alighting from a bus at Bus Stand Sadhaura and in the process took out Rs.110/- from the right pocket of the pant worn by the complainant. He tried to run away from the spot but was overpowered by the persons present there and the amount of Rs.110/- was recovered from him. Therefore, he does not deserve any leniency in the matter of sentence.

When the petitioner was heard by the trial Court on the quantum of sentence, he had stated that he had small children to support and was the only bread earner of the family. The petitioner has been

facing the agony of criminal prosecution since the month of March, 1991. From the records, it is apparent that after being taken into custody on 8.3.1991, the petitioner was released on bail on 9.3.1991. He was again taken into custody on 3.11.1997 when his appeal against his conviction and sentence was dismissed by the lower appellate Court. It was only on 10.12.1997 that he was ordered to be released on bail. Taking into consideration the totality of the circumstances, the Court is of the view that no useful purpose would be served by sending the petitioner behind the bars, once again, for undergoing the remainder of his sentence. Ends of justice would be amply met if the substantive sentence of the petitioner is reduced to that already undergone by him.

Resultantly, the conviction of the petitioner under Section 379 IPC is upheld. His substantive sentence of imprisonment is reduced to that already undergone by him.

Except for the modification in the quantum of sentence of imprisonment to the extent as indicated above, the revision fails and is, therefore, dismissed.

July 02, 2010
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(T.P.S. MANN)
JUDGE